

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERIC KEITH RODGERS,

Plaintiff,

Case No. 23-cv-13211

Hon. Matthew F. Leitman

v.

REVIERT, *et al.*,

Defendants

/

ORDER GRANTING PLAINTIFF LEAVE TO FILE
A SECOND AMENDED COMPLAINT

Plaintiff Eric Keith Rodgers is a state inmate in the custody of the Michigan Department of Corrections (the “MDOC”). On December 18, 2023, Rodgers filed this civil rights action against four employees and officials employed by the MDOC. (*See* Compl., ECF No. 1.) Rodgers alleges that Defendants committed gross negligence and violated the Fifth and Eighth Amendments when they failed to protect him, a prisoner with gender dysphoria, from sexual assault. (*See* Compl., ECF No. 1; Am. Compl., ECF No. 41.) Defendants have now filed a motion to dismiss Plaintiff’s Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). (*See* Mot. to Dismiss, ECF No. 46.) One of the bases for dismissal is that Plaintiff has failed to plead sufficient facts to state viable claims under the Supreme Court’s decisions in *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). (*See, e.g., id.*, PageID.54-64.)

Without expressing any view regarding the merits of the motion to dismiss, the Court will grant Rodgers the opportunity to file a Second Amended Complaint in order to remedy the alleged deficiencies in his allegations identified in the motion to dismiss. The Court does not anticipate allowing Rodgers another opportunity to amend to add factual allegations that he could now include in his Second Amended Complaint. Simply put, this is Rodgers' opportunity to amend his allegations to cure the alleged deficiencies in his claims.

By **June 16, 2025**, Rodgers shall file a notice on the docket in this action notifying the Court and Defendants whether he will amend his Complaint. If Rodgers provides notice that he will be filing a Second Amended Complaint, he shall file that amended pleading by no later than **June 26, 2025**.

Finally, if Rodgers provides notice that he will be filing a Second Amended Complaint, the Court will terminate without prejudice Defendants' currently-pending motion to dismiss and motion to seal exhibits as moot. Defendants may answer the Second Amended Complaint and/or re-file a motion to dismiss the Second Amended Complaint if they believe that such a motion is appropriate after reviewing that pleading.

IT IS SO ORDERED.

Dated: June 2, 2025

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on June 2, 2025, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

(313) 234-5126